

#22 Ref for Refund
10/12/03

**ATTORNEY'S DOCKET NO.: 2004117-0002 (NEMC 197)
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Carr, et al. Examiner: Landsman, R.
Serial No.: 09/428,692 Group Art Unit: 1647
Filed: October 28, 1999
For: NOVEL CHIMERIC ANALGESIC PEPTIDES

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

US PATENT & TRADEMARK OFFICE

Certificate of Mailing

I hereby certify that the foregoing documents are being deposited with the United States Postal Service as first class mail, in an envelope addressed to Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on this date of September 25, 2003.

Kathy Hart Gagnon
Name: Kathy Hart Gagnon

Sir:

TRANSMITTAL

Enclosed please find the following documents regarding the above-referenced case:

1. Request for Refund (2 pp.);
2. Copy of the Request for Refund under 37 C.F.R. § 1.26 and 35 U.S.C. § 42(d) as filed with the USPTO on October 7, 2002 including:
 - (i) Transmittal (1 pg.);
 - (ii) Request for Refund under 37 C.F.R. § 1.26 and 35 U.S.C. § 42(d) (2 pp.);
 - (iii) Copy of Written Assertion of Small Entity Status Under 37 CFR § 1.27(a)(2) (1 pg.) as filed on February 5, 2002 and copies of corresponding transmittal (1 pg.) and return postcard;
 - (iv) Copy of deposit account statement dated March 29, 2002 (1 pg.);
 - (v) Return postcard stamped "received" October 11, 2002;
3. Copy of Applicant's letter to Examiner Landsman dated January 7, 2003 enclosing October 7, 2002 filing, including:
 - (i) Letter dated January 7, 2003 (2 pp.);
 - (ii) Return postcard stamped "received" January 10, 2003; and
4. Return postcard.

Applicant believes that no fee is associated with this filing. However, if Applicant is mistaken, please charge any required fees to Deposit Account No. 03-1721.

Respectfully submitted,
CHOATE, HALL & STEWART



Nadège M. Lagneau, Ph.D.
Registration No. 51,908

Date: September 25, 2003

PATENT GROUP
CHOATE, HALL & STEWART
Exchange Place
53 State Street
Boston, MA 02109
Tel: (617) 248-5150
Fax: (617) 248-4000

ATTORNEY DOCKET NO. 2004117-0002 (NEMC 197)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Carr, et al. Examiner: Landsman, R.S.
Serial No.: 09/428,692 Art Unit: 1647
Filing Date: October 28, 1999
Title: NOVEL CHIMERIC ANALGESIC PEPTIDES

Certificate of Mailing

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Name: Kathy Hart Gagnon



REQUEST FOR REFUND

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed is a copy of a Request for Refund mailed together with an Amendment and Response under 37 C.F.R. § 1.111 on October 7, 2002 in the above-referenced Application. Also enclosed is a copy of the return postcard attesting that the filing was received by the U.S. Patent & Trademark Office (USPTO) on October 11, 2002.

At Examiner Landsman's request, a copy of the entire October 7, 2002 filing was re-sent on January 7, 2003. A copy of the return postcard attesting that the filing was received by the USPTO on January 10, 2003 is enclosed.

Having not received an action from the USPTO regarding the Request for Refund first filed October 7, 2002 for over nine months, the undersigned contacted Examiner Landsman on August 18, 2003. As suggested by the Examiner, the undersigned called Barbara Frieson. The undersigned was unable to speak to Barbara Frieson directly, but left a voice mail on August 18, 2003 detailing the facts involved, and inviting her to call the undersigned at her earliest convenience. As of today, September 25, 2003, Barbara Frieson has not returned the undersigned's phone call.

In an effort to expedite review and processing of the request, Applicant hereby re-submits the Request for Refund and respectfully requests that \$1,710.00 be credited to our Deposit Account No. 031721. For the convenience of the Examiner, Applicant hereby reiterates the facts involved:

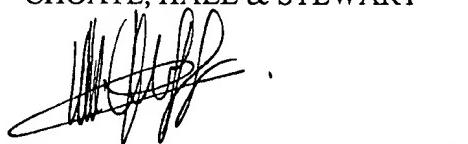
Applicant filed a Written Assertion of Small Entity Status under 37 C.F.R. § 1.27(a)(3) on February 5, 2002 in the above-referenced application, a copy of which is enclosed herewith. Also enclosed are copies of the original Transmittal and of the return postcard attesting that the Assertion of Small Entity Status was received by the U.S. Patent & Trademark Office (USPTO) on February 19, 2002.

On March 15, 2002, Applicant filed an Amendment and Response under 37 C.F.R. § 1.111 with authorization to charge any fees to our deposit account. The USPTO subsequently charged our deposit account an excess claim fee in an amount of \$3,420.00 (*i.e.*, Large Entity) on March 20, 2002. A copy of the deposit account statement indicating such charge is enclosed herewith. A Small Entity excess claim fee should have been applied.

We therefore request that \$1,710.00 be credited to our Deposit Account No. 031721.

Should there be any questions after reviewing this paper, the Examiner is invited to contact the undersigned at (617) 248-5150.

Respectfully submitted,
CHOATE, HALL & STEWART



Nadège M. Lagneau, Ph.D.
Registration No. 51,908

Date: September 25, 2003

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CHOATE, HALL & STEWART

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

EXCHANGE PLACE

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BOSTON, MASSACHUSETTS 02109-2804

TELEPHONE (617) 248-5000 • FAX (617) 248-4000

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NADÈGE M. LAGNEAU, PH.D.
DIRECT DIAL: (617) 248-5150
EMAIL: NLAGNEAU@CHOATE.COM

COPY

January 7, 2003

VIA FIRST CLASS MAIL

United States Patent & Trademark Office
Attn: Examiner Robert S. Landsman
Crystal Plaza 1
1911 South Clark Place
7th floor reception
Arlington, VA 22202

RE: U.S. Patent Application entitled, "Novel Chimeric Analgesic Peptides"
Applicant : Carr *et al.*
Serial Number: 09/428,692
Filed: October 28, 1999
Art Unit: 1647
Our Reference No.: 2004117-0002

Dear Examiner Landsman:

Per our telephone conversation of January 7, 2003, please find enclosed a copy of the Amendment and Response under 37 C.F.R. § 1.111 and ancillary documents, filed with the U.S. Patent & Trademark Office (USPTO) on October 7, 2002. Also enclosed is a copy of the return postcard attesting that the USPTO received the Amendment and Response on October 11, 2002.

I look forward to receiving the product of your examination of the claims presented in the October 7 Amendment. Should you have any questions, please do not hesitate to contact me (617-248-5150).

Very truly yours,



Nadège M. Lagneau, Ph.D.
Reg. No.: 51,908

- Enclosures:
- 1) Copy of Transmittal (1 pg.) dated October 7, 2002;
 - 2) Copy of Amendment and Response under 37 C.F.R. § 1.111 (38 pp.) as filed October 7, 2002;
 - 3) Copy of Lipkowski *et al.*, "Neuropeptides: Peptide and Nonpeptide Analogs" in *Peptides: Synthesis, Structures and Applications*, B, Gutte, ed., Academic Press, 1995, pp. 287-320 (34 pp.);
 - 4) Copy of Lei *et al.*, *Eur. J. Pharmacol.*, 193(2):209-215, 1991 (7 pp.);
 - 5) Copy of "Management of Cancer Pain"; Clinical Guideline Number 9; AHCPR Publication No. 94-0592, March 1994 (202 pp.);

Robert S. Landsman, Ph.D.
January 7, 2003
Page 2

COPY

- 6) Copy of Petition for Extension of Time under 37 C.F.R. 1.17(a)(1) (1 pg.);
- 7) Copy of Request for Refund under 37 C.F.R. § 1.26 and 35 U.S.C. § 42(d)
(2 pp.);
- 8) Copy of Written Assertion of Small Entity Status Under 37 CFR § 1.27(a)(2)
(1 pg.) as filed on February 5, 2002 and copies of corresponding transmittal
(1 pg.) and return postcard;
- 9) Copy of deposit account statement dated March 29, 2002 (1 pg.); and
- 10) Copy of Return Postcard stamped received October 11, 2002.

cc: John Cosmopoulos (w/o encl.)
Daniel B. Carr, M.D. (w/o encl.)
Richard Kream, Ph.D. (w/o encl.)
Andrzej Lipkowski, Ph.D. (w/o encl.)
Aleksandra Misicka, Ph.D. (w/o encl.)
Tom Esposito (w/o encl.)
John J. Witmeyer, III (w/o encl.)
Brenda Herschbach Jarrell, Ph.D. (w/o encl.)

I hereby certify that this correspondence is being
deposited with the United States Postal Service as first
class mail in an envelope addressed to: Assistant
Commissioner For Patents, Washington, D.C. 20231
on January 7, 2003
11:45 AM EST

C *T* *Y* BHJ/NML

Date: January 7, 2003

The Patent and Trademark Office stamping sets forth filing and receipt date
of Amendment and Response under 37 C.F.R. § 1.111 in the Patent application identified as follows:

Applicant: Carr, et al.
Serial No.: 09/428,692
Filing Date: October 28, 1999
Title: NOVEL CHIMERIC ANALGESIC PEPTIDES

Examiner: Landsman, R.S.
Art Unit: 1647

RECEIVED

JAN 10 2003

TECH CENTER 1600/2900

1. Letter to Examiner Landsman dated January 7, 2003;
2. Copy of Transmittal (1 pg.) dated October 7, 2002;
3. Copy of Amendment and Response under 37 C.F.R. § 1.111 (38 pp.) as filed October 7, 2002;
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5. Copy of Lei et al., *Eur. J. Pharmacol.*, 193(2):209-215, 1991 (7 pp.);
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10. Copy of deposit account statement dated March 29, 2002 (1 pg.);
11. Copy of Return Postcard stamped received October 11, 2002; and
12. This postcard.

Attorney: BHJ/NML Attorney Docket No. 2004117-0002
3503165_1.DOC (NEMC 197)

COPY

ATTORNEY DOCKET NO. 2004117-0002 (NEMC 197)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Carr, *et al.* Examiner: Landsman, R.S.
Serial No.: 09/428,692 Art Unit: 1647
Filing Date: October 28, 1999
Title: NOVEL CHIMERIC ANALGESIC PEPTIDES

Assistant Commissioner of Patents
Washington, DC 20231

Sir:

TRANSMITTAL

Enclosed please find the following documents regarding the above-referenced matter:

- 1) Amendment and Response under 37 C.F.R. § 1.111 (38 pp.);
- 2) Copy of Lipkowski *et al.*, "Neuropeptides: Peptide and Nonpeptide Analogs" in *Peptides: Synthesis, Structures and Applications*, B, Gutte, ed., Academic Press, 1995, pp. 287-320 (34 pp.);
- 3) Copy of Lei *et al.*, *Eur. J. Pharmacol.*, 193(2):209-215, 1991 (7 pp.);
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- 8) Copy of deposit account statement dated March 29, 2002 (1 pg.); and
- 9) Return Postcard.

Respectfully submitted,


Nadège M. Lagneau, Ph.D.
Reg. No. 51,908

CHOATE, HALL & STEWART
Exchange Place
53 State Street
Boston, MA 02109
(617) 248-5000
Dated: October 7, 2002

I hereby certify this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner For Patents, Washington, D.C. 20231
on October 7, 2002
(NADÈGE LAGNEAU)

USSN 09/428,692
3465727v1

Page 1 of 1

Attorney Docket No.: 2004117-0002
Client Reference No.: NEMC 197

ATTORNEY DOCKET NO. 2004117-0002 (NEMC 197)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Carr, et al.	Examiner:	Landsman, R.S.
Serial No.:	09/428,692	Art Unit:	1647
Filing Date:	October 28, 1999		
Title:	NOVEL CHIMERIC ANALGESIC PEPTIDES		

Assistant Commissioner of Patents
Washington, DC 20231

COPY

ATTENTION: Refund Section, Accounting Division, Office of Finance

REQUEST FOR REFUND UNDER 37 C.F.R. § 1.26 and 35 U.S.C. § 42(d)

Applicant hereby requests a refund of \$1,710.00 for the above-referenced application. The reasons for the request for refund are set forth below:

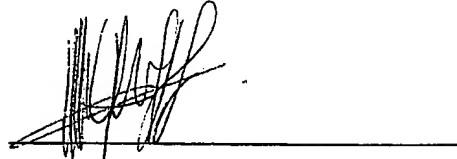
Applicant filed a Written Assertion of Small Entity Status under 37 C.F.R. § 1.27(a)(3) on February 5, 2002 in the above-referenced application, a copy of which is enclosed herewith. Also enclosed are copies of the original Transmittal and of the return postcard attesting that the Assertion of Small Entity Status was received by the U.S. Patent & Trademark Office (USPTO) on February 19, 2002.

On March 15, 2002, Applicant filed an Amendment and Response under 37 C.F.R. § 1.111 with authorization to charge any fees to our deposit account. The USPTO subsequently charged our deposit account an excess claim fee in an amount of \$3,420.00 (*i.e.*, Large Entity) on March 20, 2002. A copy of the deposit account statement indicating such charge is enclosed herewith. A Small Entity excess claim fee should have been applied.

Applicant hereby requests a refund of \$1,710.00 to be credited to our Deposit Account No. 03-1721. This request for refund is made within two years from the date of the deposit account statement indicating that the amount paid in excess of that required was charged in this application, therefore the present request is being timely filed.

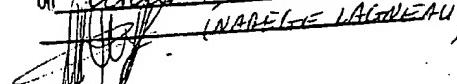
Please charge any additional fees or credit any overpayments that may be required to our
Deposit Account No. 03-1721.

Date: October 7, 2002



Nadège M. Lagneau, Ph.D.
Registration No. 51,908

Choate, Hall & Stewart
53 State Street
Exchange Place
Boston, MA 02109
Telephone: 617-248-5150
Facsimile: 617-248-4000

I hereby certify this correspondence is being
deposited with the United States Postal Service as first
class mail in an envelope addressed to Assistant
Commissioner For Patents, Washington, D.C. 20231
on October 7, 2002

(NADÈGE LAGNEAU)

Page 2 of 2

USSN 09/428,692
3465620v1

Attorney Docket No.: 2004117-0002
Client Reference No.: NEMC 197

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Carr et al.
Serial No.: 09/428,692
Filing Date: October 28, 1999
Title: NOVEL CHIMERIC ANALGESIC PEPTIDES

Examiner: Landsman, R.
Art Unit: 1647

Assistant Commissioner for Patents
Washington, DC 20231

COPY

Sir:

WRITTEN ASSERTION OF SMALL ENTITY STATUS
UNDER 37 CFR §1.27(a)(3)
NON-PROFIT ORGANIZATION

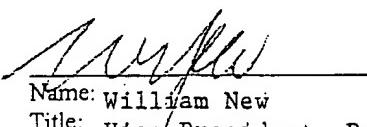
The undersigned hereby asserts entitlement to small entity status as a non-profit organization under 37 CFR §1.27(a)(3) on behalf of the New England Medical Center.

This assertion is made on the ground that New England Medical Center is either:

- (a) a university or other institution of higher education located in any country;
- (b) an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 USC §501(c)(3)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 USC §501(a));
- (c) any nonprofit scientific or educational organization qualified under a nonprofit organization statute of a state of this country (35 USC §201(i)); or
- (d) any nonprofit organization, located in a foreign country, that would qualify as a nonprofit organization under paragraphs (b) or (c) above if it were located in this country,

and *has not* assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey, or license, any rights in the above-referenced patent application to any party who does not qualify for small entity status either as a person, a small business concern, or a nonprofit organization under 37 CFR §1.27.

Respectfully Submitted,


Name: William New
Title: Vice President, Research Administration
Date: 1/4/02

CHOATE, HALL & STEWART
53 State Street
Exchange Place
Boston, MA 02109
Phone: (617) 248-5000
Fax: (617) 248-4000

ATTORNEY DOCKET NO. 2004117-0002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Carr et al. Examiner: Landsman, R.
Serial No.: 09/428,692 Art Unit: 1647
Filing Date: October 28, 1999
Title: NOVEL CHIMERIC ANALGESIC PEPTIDES

Assistant Commissioner of Patents
Washington, DC 20231

Sir:

COPY

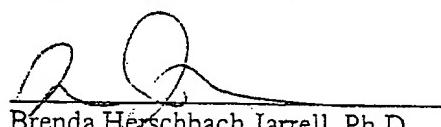
TRANSMITTAL LETTER

Enclosed are the following documents:

1. Revocation of Previous Powers of Attorney and Appointments of Attorney Under 37 C.F.R. §3.71 (2 pages);
2. Statement Establishing Right of Assignee to Take Action (2 pages);
3. Copy of Assignment and Cover sheet submitted to the PTO on January 4, 2001 (3 pages);
4. Written Assertion of Small Entity Status under 37 CFR 1.27(a)(3) (1 page); and
5. Return Postcard.

If any additional fees are required to be paid or if any overpayment has been made, please charge same to Deposit Account No. 03-1721.

Respectfully submitted,


Brenda Herschbach Jarrell, Ph.D.
Reg. No. 39,233

Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109
(617) 248-5000

Dated: 2/5/2002

COPY

Today's Date: February 5, 2002

The Patent and Trademark Office stamping
sets forth and receipt date
(or both the receipt date and the Serial Number)
of documents identified as follows:

Applicant: Carr et al.

Serial No.: 09/428,692

Filing Date: October 28, 1999

Title: NOVEL CHIMERIC ANALGESIC PEPTIDES

- 1.) Transmittal Letter (2 pages);
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§3.71 (2 pages);
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4.) Copy of Assignment and Cover sheet submitted to the PTO on January 4, 2001 (3 pages);
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6.) Return Postcard.

Attorney: BHJ Attorney Docket No. 2004117-0002





UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

MONTHLY STATEMENT
OF DEPOSIT ACCOUNT

To replenish your Deposit Account, detach and return top portion with your check. Make check payable to Commissioner of Patents & Trademarks.

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Washington, D.C. 20231

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Date
3-29-02
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2

CHOATE HALL & STEWART
VICTORIA CLIFFORD
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BOSTON MA 02109

FINA

PLEASE SEND REMITTANCES TO:
Patent and Trademark Office
P.O. Box 70541
Chicago, Ill. 60673

DATE POSTED		CONTROL NO.	DESCRIPTION (Serial, Patent, TM, Order)	DOCKET NO.	FEE CODE	CHARGES/ CREDITS	BALANCE
O.	DAY	YR.					
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3	25	02	19	10102056	0342941-0073	202 - 801	378.00 10295.13
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3	27	02	346	PCT/US02/08058	0550862-0015	802 - 806	866.00 8359.13
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3	29	02	67	10106986	0550862-0015	201 - 801	370.00 5896.13
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3	29	02	455	PCT/US02/08336	2002630-0016	150 - 806	240.00 5191.13
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3	29	02	458	PCT/US02/08336	2002630-0016	801 - 806	1134.00 2784.13

N AMOUNT SUFFICIENT TO
OVER ALL SERVICES REQUESTED
LIST ALWAYS BE ON DEPOSIT

OPENING BALANCE	TOTAL CHARGES	TOTAL CREDITS	CLOSING BALANCE
-----------------	---------------	---------------	-----------------

Date Filed: October 7, 2002

The Patent and Trademark Office stamping sets forth filing and receipt date of an Amendment and Response under 37 C.F.R. § 1.111 and Request for Refund in the Patent application identified as follows:

BHJ/NML

Applicant:	Carr, et al.	Examiner:	Landsman, R.S.
Serial No.:	09/428,692	Art Unit:	1647
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9) Copy of deposit account statement dated March 29, 2002 (1 pg.); and
10) This Return Postcard.



Attorney: BHJ/NML Attorney Docket No. 2004117-0002 (NEMC 197)
3465837v1